

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC., AND)
BAYER HEALTHCARE LLC,)

Plaintiffs,)

v.)

C.A. NO. 05-349-GMS

BAXTER INTERNATIONAL INC., AND)
BAXTER HEALTHCARE CORPORATION,)

Jury Trial Demanded

Defendants.)

REDACTED VERSION DI 255

BAXTER HEALTHCARE CORPORATION,)

Counterclaimant,)

v.)

TALECRIS BIOTHERAPEUTICS, INC., and)
BAYER HEALTHCARE LLC,)

Counterdefendants.)

PLAINTIFFS' MOTION *IN LIMINE* NO. 2 TO PRECLUDE EXPERT TESTIMONY
REGARDING NON-INFRINGEMENT ALTERNATIVES

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Redacted Version Filed: April 30, 2007
Date: April 23, 2007

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Counterclaim Defendants*

Plaintiffs and Counterclaim Defendants Talecris Biotherapeutics, Inc. and Bayer Healthcare LLC ("Plaintiffs") hereby move *in limine*, pursuant to Federal Rule of Evidence 702, to preclude Defendants Baxter International Inc. and Baxter Healthcare Corporation ("Baxter") from introducing any evidence or argument of "non-infringing alternatives" proffered by their damages expert, R. Bruce Den Uyl. A proposed form of Order is attached hereto as Exhibit A.

For the reasons set forth in Plaintiffs' Memorandum of Law submitted contemporaneously herewith, Plaintiffs respectfully request that the Court enter an Order granting their Motion *In Limine* No. 2.

Respectfully submitted,

/s/ Jeffrey B. Bove

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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**TALECRIS BIOTHERAPEUTICS, INC., AND)
BAYER HEALTHCARE LLC,)**

Plaintiffs,)

v.)

C.A. NO. 05-349-GMS

**BAXTER INTERNATIONAL INC., AND)
BAXTER HEALTHCARE CORPORATION,)**

JURY TRIAL DEMANDED

Defendants.)

BAXTER HEALTHCARE CORPORATION,)

Counterclaimant,)

v.)

**TALECRIS BIOTHERAPEUTICS, INC., and)
BAYER HEALTHCARE LLC,)**

Counterdefendants.)

[PROPOSED] ORDER

AND NOW, this ____ day of _____, 2007, upon consideration of Plaintiffs' Motion *In Limine* No. 2 to Preclude Expert Testimony Regarding Non-Infringing Alternatives, it is hereby ORDERED that said Motion is GRANTED.

U.S. District Court Judge Gregory M. Sleet

CERTIFICATE OF SERVICE

I hereby certify on this 23rd day of April, 2007 I electronically filed the foregoing **Plaintiffs' Motion *In Limine* No. 2 to Preclude Expert Testimony Regarding Non-Infringing Alternatives** with the Clerk of Court using CM/ECF which will send notification of such filing to the following:

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I also hereby certify that a true copy of the foregoing document was served upon the following in the manner indicated on April 23, 2007.

<u>Via Hand Delivery and E-Mail</u> Philip A. Rovner, Esquire Potter Anderson & Corroon LLP Hercules Plaza P. O. Box 951 Wilmington, DE 19899 (302) 984-6140 provner@potteranderson.com	<u>Via Federal Express and E-Mail</u> Susan Spaeth, Esquire Townsend and Townsend and Crew LLP 379 Lytton Avenue Palo Alto, CA 94301-1431 (415) 576-0200 smspaeth@townsend.com
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